
HOUSE BILL 1836

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By Representatives Ericks, Pearson, Lovick, Williams, Kelley, Kretz, Hurst and Simpson

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1 AN ACT Relating to requiring registered sex and kidnapping
2 offenders to register after serving a term of confinement for a
3 subsequent offense that is not a sex or kidnapping offense; and
4 reenacting and amending RCW 9A.44.130.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 9A.44.130 and 2006 c 129 s 2, 2006 c 128 s 2, 2006 c
7 127 s 2, and 2006 c 126 s 2 are each reenacted and amended to read as
8 follows:

9 (1)(a) Any adult or juvenile residing whether or not the person has
10 a fixed residence, or who is a student, is employed, or carries on a
11 vocation in this state who has been found to have committed or has been
12 convicted of any sex offense or kidnapping offense, or who has been
13 found not guilty by reason of insanity under chapter 10.77 RCW of
14 committing any sex offense or kidnapping offense, shall register with
15 the county sheriff for the county of the person's residence, or if the
16 person is not a resident of Washington, the county of the person's
17 school, or place of employment or vocation, or as otherwise specified
18 in this section. Where a person required to register under this
19 section is in custody of the state department of corrections, the state

1 department of social and health services, a local division of youth
2 services, or a local jail or juvenile detention facility as a result of
3 a sex offense or kidnapping offense, the person shall also register at
4 the time of release from custody with an official designated by the
5 agency that has jurisdiction over the person.

6 (b) Any adult or juvenile who is required to register under (a) of
7 this subsection:

8 (i) Who is attending, or planning to attend, a public or private
9 school regulated under Title 28A RCW or chapter 72.40 RCW shall, within
10 ten days of enrolling or prior to arriving at the school to attend
11 classes, whichever is earlier, notify the sheriff for the county of the
12 person's residence of the person's intent to attend the school, and the
13 sheriff shall promptly notify the principal of the school;

14 (ii) Who is admitted to a public or private institution of higher
15 education shall, within ten days of enrolling or by the first business
16 day after arriving at the institution, whichever is earlier, notify the
17 sheriff for the county of the person's residence of the person's intent
18 to attend the institution;

19 (iii) Who gains employment at a public or private institution of
20 higher education shall, within ten days of accepting employment or by
21 the first business day after commencing work at the institution,
22 whichever is earlier, notify the sheriff for the county of the person's
23 residence of the person's employment by the institution; or

24 (iv) Whose enrollment or employment at a public or private
25 institution of higher education is terminated shall, within ten days of
26 such termination, notify the sheriff for the county of the person's
27 residence of the person's termination of enrollment or employment at
28 the institution.

29 (c) Persons required to register under this section who are
30 enrolled in a public or private institution of higher education on June
31 11, 1998, or a public or private school regulated under Title 28A RCW
32 or chapter 72.40 RCW on September 1, 2006, must notify the county
33 sheriff immediately.

34 (d) The sheriff shall notify the school's principal or
35 institution's department of public safety and shall provide that
36 department with the same information provided to a county sheriff under
37 subsection (3) of this section.

1 (e)(i) A principal receiving notice under this subsection must
2 disclose the information received from the sheriff under (b) of this
3 subsection as follows:

4 (A) If the student who is required to register as a sex offender is
5 classified as a risk level II or III, the principal shall provide the
6 information received to every teacher of any student required to
7 register under (a) of this subsection and to any other personnel who,
8 in the judgment of the principal, supervises the student or for
9 security purposes should be aware of the student's record;

10 (B) If the student who is required to register as a sex offender is
11 classified as a risk level I, the principal shall provide the
12 information received only to personnel who, in the judgment of the
13 principal, for security purposes should be aware of the student's
14 record.

15 (ii) Any information received by a principal or school personnel
16 under this subsection is confidential and may not be further
17 disseminated except as provided in RCW 28A.225.330, other statutes or
18 case law, and the family and educational and privacy rights act of
19 1994, 20 U.S.C. Sec. 1232g et seq.

20 (2) This section may not be construed to confer any powers pursuant
21 to RCW 4.24.550 upon the public safety department of any public or
22 private school or institution of higher education.

23 (3)(a) The person shall provide the following information when
24 registering: (i) Name; (ii) complete residential address; (iii) date
25 and place of birth; (iv) place of employment; (v) crime for which
26 convicted; (vi) date and place of conviction; (vii) aliases used;
27 (viii) social security number; (ix) photograph; and (x) fingerprints.

28 (b) Any person who lacks a fixed residence shall provide the
29 following information when registering: (i) Name; (ii) date and place
30 of birth; (iii) place of employment; (iv) crime for which convicted;
31 (v) date and place of conviction; (vi) aliases used; (vii) social
32 security number; (viii) photograph; (ix) fingerprints; and (x) where he
33 or she plans to stay.

34 (4)(a) Offenders shall register with the county sheriff within the
35 following deadlines. For purposes of this section the term
36 "conviction" refers to adult convictions and juvenile adjudications for
37 sex offenses or kidnapping offenses:

1 (i) OFFENDERS IN CUSTODY. (A)(I) Sex offenders who committed a sex
2 offense on, before, or after February 28, 1990, and who, on or after
3 July 28, 1991, are in custody, as a result of that offense, of the
4 state department of corrections, the state department of social and
5 health services, a local division of youth services, or a local jail or
6 juvenile detention facility, and ((+B+)) (II) kidnapping offenders who
7 on or after July 27, 1997, are in custody of the state department of
8 corrections, the state department of social and health services, a
9 local division of youth services, or a local jail or juvenile detention
10 facility, must register at the time of release from custody with an
11 official designated by the agency that has jurisdiction over the
12 offender. The agency shall within three days forward the registration
13 information to the county sheriff for the county of the offender's
14 anticipated residence. The offender must also register within twenty-
15 four hours from the time of release with the county sheriff for the
16 county of the person's residence, or if the person is not a resident of
17 Washington, the county of the person's school, or place of employment
18 or vocation. The agency that has jurisdiction over the offender shall
19 provide notice to the offender of the duty to register. Failure to
20 register at the time of release and within twenty-four hours of release
21 constitutes a violation of this section and is punishable as provided
22 in subsection (11) of this section.

23 (B) When an offender required to register under this section is
24 subsequently convicted of an offense that is not a sex or kidnapping
25 offense, and is in the custody, as a result of the offense, of the
26 state department of corrections, the state department of social and
27 health services, a local division of youth services, or a local jail or
28 juvenile detention facility, he or she shall register at the time of
29 release from custody with an official designated by the agency that has
30 jurisdiction over the offender. The agency shall, within three days,
31 forward the registration information to the county sheriff for the
32 county of the offender's anticipated residence. The offender shall
33 also register within twenty-four hours from the time of release with
34 the county sheriff for the county of the person's residence, or if the
35 person is not a resident of Washington, the county of the person's
36 school or place of employment or vocation. The agency that has
37 jurisdiction over the offender shall provide notice to the offender of

1 the duty to register. The requirements of this subsection (4)(a)(i)(B)
2 apply regardless of whether the offender was registered prior to his or
3 her confinement.

4 (C) When the agency with jurisdiction intends to release an
5 offender with a duty to register under this section, and the agency has
6 knowledge that the offender is eligible for developmental disability
7 services from the department of social and health services, the agency
8 shall notify the division of developmental disabilities of the release.
9 Notice shall occur not more than thirty days before the offender is to
10 be released. The agency and the division shall assist the offender in
11 meeting the initial registration requirement under this section.
12 Failure to provide such assistance shall not constitute a defense for
13 any violation of this section.

14 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
15 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
16 but are under the jurisdiction of the indeterminate sentence review
17 board or under the department of corrections' active supervision, as
18 defined by the department of corrections, the state department of
19 social and health services, or a local division of youth services, for
20 sex offenses committed before, on, or after February 28, 1990, must
21 register within ten days of July 28, 1991. Kidnapping offenders who,
22 on July 27, 1997, are not in custody but are under the jurisdiction of
23 the indeterminate sentence review board or under the department of
24 corrections' active supervision, as defined by the department of
25 corrections, the state department of social and health services, or a
26 local division of youth services, for kidnapping offenses committed
27 before, on, or after July 27, 1997, must register within ten days of
28 July 27, 1997. A change in supervision status of a sex offender who
29 was required to register under this subsection (4)(a)(ii) as of July
30 28, 1991, or a kidnapping offender required to register as of July 27,
31 1997, shall not relieve the offender of the duty to register or to
32 reregister following a change in residence. The obligation to register
33 shall only cease pursuant to RCW 9A.44.140.

34 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
35 or after July 23, 1995, and kidnapping offenders who, on or after July
36 27, 1997, as a result of that offense are in the custody of the United
37 States bureau of prisons or other federal or military correctional
38 agency for sex offenses committed before, on, or after February 28,

1 1990, or kidnapping offenses committed on, before, or after July 27,
2 1997, must register within twenty-four hours from the time of release
3 with the county sheriff for the county of the person's residence, or if
4 the person is not a resident of Washington, the county of the person's
5 school, or place of employment or vocation. Sex offenders who, on July
6 23, 1995, are not in custody but are under the jurisdiction of the
7 United States bureau of prisons, United States courts, United States
8 parole commission, or military parole board for sex offenses committed
9 before, on, or after February 28, 1990, must register within ten days
10 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
11 in custody but are under the jurisdiction of the United States bureau
12 of prisons, United States courts, United States parole commission, or
13 military parole board for kidnapping offenses committed before, on, or
14 after July 27, 1997, must register within ten days of July 27, 1997.
15 A change in supervision status of a sex offender who was required to
16 register under this subsection (4)(a)(iii) as of July 23, 1995, or a
17 kidnapping offender required to register as of July 27, 1997 shall not
18 relieve the offender of the duty to register or to reregister following
19 a change in residence, or if the person is not a resident of
20 Washington, the county of the person's school, or place of employment
21 or vocation. The obligation to register shall only cease pursuant to
22 RCW 9A.44.140.

23 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
24 who are convicted of a sex offense on or after July 28, 1991, for a sex
25 offense that was committed on or after February 28, 1990, and
26 kidnapping offenders who are convicted on or after July 27, 1997, for
27 a kidnapping offense that was committed on or after July 27, 1997, but
28 who are not sentenced to serve a term of confinement immediately upon
29 sentencing, shall report to the county sheriff to register immediately
30 upon completion of being sentenced.

31 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
32 RESIDENTS. Sex offenders and kidnapping offenders who move to
33 Washington state from another state or a foreign country that are not
34 under the jurisdiction of the state department of corrections, the
35 indeterminate sentence review board, or the state department of social
36 and health services at the time of moving to Washington, must register
37 within three business days of establishing residence or reestablishing
38 residence if the person is a former Washington resident. The duty to

1 register under this subsection applies to sex offenders convicted under
2 the laws of another state or a foreign country, federal or military
3 statutes for offenses committed before, on, or after February 28, 1990,
4 or Washington state for offenses committed before, on, or after
5 February 28, 1990, and to kidnapping offenders convicted under the laws
6 of another state or a foreign country, federal or military statutes, or
7 Washington state for offenses committed before, on, or after July 27,
8 1997. Sex offenders and kidnapping offenders from other states or a
9 foreign country who, when they move to Washington, are under the
10 jurisdiction of the department of corrections, the indeterminate
11 sentence review board, or the department of social and health services
12 must register within twenty-four hours of moving to Washington. The
13 agency that has jurisdiction over the offender shall notify the
14 offender of the registration requirements before the offender moves to
15 Washington.

16 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
17 or juvenile who has been found not guilty by reason of insanity under
18 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
19 February 28, 1990, and who, on or after July 23, 1995, is in custody,
20 as a result of that finding, of the state department of social and
21 health services, or (B) committing a kidnapping offense on, before, or
22 after July 27, 1997, and who on or after July 27, 1997, is in custody,
23 as a result of that finding, of the state department of social and
24 health services, must register within twenty-four hours from the time
25 of release with the county sheriff for the county of the person's
26 residence. The state department of social and health services shall
27 provide notice to the adult or juvenile in its custody of the duty to
28 register. Any adult or juvenile who has been found not guilty by
29 reason of insanity of committing a sex offense on, before, or after
30 February 28, 1990, but who was released before July 23, 1995, or any
31 adult or juvenile who has been found not guilty by reason of insanity
32 of committing a kidnapping offense but who was released before July 27,
33 1997, shall be required to register within twenty-four hours of
34 receiving notice of this registration requirement. The state
35 department of social and health services shall make reasonable attempts
36 within available resources to notify sex offenders who were released
37 before July 23, 1995, and kidnapping offenders who were released before
38 July 27, 1997. Failure to register within twenty-four hours of

1 release, or of receiving notice, constitutes a violation of this
2 section and is punishable as provided in subsection (11) of this
3 section.

4 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks
5 a fixed residence and leaves the county in which he or she is
6 registered and enters and remains within a new county for twenty-four
7 hours is required to register with the county sheriff not more than
8 twenty-four hours after entering the county and provide the information
9 required in subsection (3)(b) of this section.

10 (viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER
11 SUPERVISION. Offenders who lack a fixed residence and who are under
12 the supervision of the department shall register in the county of their
13 supervision.

14 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND
15 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,
16 who move to another state, or who work, carry on a vocation, or attend
17 school in another state shall register a new address, fingerprints, and
18 photograph with the new state within ten days after establishing
19 residence, or after beginning to work, carry on a vocation, or attend
20 school in the new state. The person must also send written notice
21 within ten days of moving to the new state or to a foreign country to
22 the county sheriff with whom the person last registered in Washington
23 state. The county sheriff shall promptly forward this information to
24 the Washington state patrol.

25 (b) Failure to register within the time required under this section
26 constitutes a per se violation of this section and is punishable as
27 provided in subsection (11) of this section. The county sheriff shall
28 not be required to determine whether the person is living within the
29 county.

30 (c) An arrest on charges of failure to register, service of an
31 information, or a complaint for a violation of this section, or
32 arraignment on charges for a violation of this section, constitutes
33 actual notice of the duty to register. Any person charged with the
34 crime of failure to register under this section who asserts as a
35 defense the lack of notice of the duty to register shall register
36 immediately following actual notice of the duty through arrest,
37 service, or arraignment. Failure to register as required under this
38 subsection (4)(c) constitutes grounds for filing another charge of

1 failing to register. Registering following arrest, service, or
2 arraignment on charges shall not relieve the offender from criminal
3 liability for failure to register prior to the filing of the original
4 charge.

5 (d) The deadlines for the duty to register under this section do
6 not relieve any sex offender of the duty to register under this section
7 as it existed prior to July 28, 1991.

8 (5)(a) If any person required to register pursuant to this section
9 changes his or her residence address within the same county, the person
10 must send signed written notice of the change of address to the county
11 sheriff within seventy-two hours of moving. If any person required to
12 register pursuant to this section moves to a new county, the person
13 must send signed written notice of the change of address at least
14 fourteen days before moving to the county sheriff in the new county of
15 residence and must register with that county sheriff within twenty-four
16 hours of moving. The person must also send signed written notice
17 within ten days of the change of address in the new county to the
18 county sheriff with whom the person last registered. The county
19 sheriff with whom the person last registered shall promptly forward the
20 information concerning the change of address to the county sheriff for
21 the county of the person's new residence. Upon receipt of notice of
22 change of address to a new state, the county sheriff shall promptly
23 forward the information regarding the change of address to the agency
24 designated by the new state as the state's offender registration
25 agency.

26 (b) It is an affirmative defense to a charge that the person failed
27 to send a notice at least fourteen days in advance of moving as
28 required under (a) of this subsection that the person did not know the
29 location of his or her new residence at least fourteen days before
30 moving. The defendant must establish the defense by a preponderance of
31 the evidence and, to prevail on the defense, must also prove by a
32 preponderance that the defendant sent the required notice within
33 twenty-four hours of determining the new address.

34 (6)(a) Any person required to register under this section who lacks
35 a fixed residence shall provide signed written notice to the sheriff of
36 the county where he or she last registered within forty-eight hours
37 excluding weekends and holidays after ceasing to have a fixed
38 residence. The notice shall include the information required by

1 subsection (3)(b) of this section, except the photograph and
2 fingerprints. The county sheriff may, for reasonable cause, require
3 the offender to provide a photograph and fingerprints. The sheriff
4 shall forward this information to the sheriff of the county in which
5 the person intends to reside, if the person intends to reside in
6 another county.

7 (b) A person who lacks a fixed residence must report weekly, in
8 person, to the sheriff of the county where he or she is registered.
9 The weekly report shall be on a day specified by the county sheriff's
10 office, and shall occur during normal business hours. The county
11 sheriff's office may require the person to list the locations where the
12 person has stayed during the last seven days. The lack of a fixed
13 residence is a factor that may be considered in determining an
14 offender's risk level and shall make the offender subject to disclosure
15 of information to the public at large pursuant to RCW 4.24.550.

16 (c) If any person required to register pursuant to this section
17 does not have a fixed residence, it is an affirmative defense to the
18 charge of failure to register, that he or she provided written notice
19 to the sheriff of the county where he or she last registered within
20 forty-eight hours excluding weekends and holidays after ceasing to have
21 a fixed residence and has subsequently complied with the requirements
22 of subsections (4)(a)(vii) or (viii) and (6) of this section. To
23 prevail, the person must prove the defense by a preponderance of the
24 evidence.

25 (7) All offenders who are required to register pursuant to this
26 section who have a fixed residence and who are designated as a risk
27 level II or III must report, in person, every ninety days to the
28 sheriff of the county where he or she is registered. Reporting shall
29 be on a day specified by the county sheriff's office, and shall occur
30 during normal business hours. An offender who complies with the
31 ninety-day reporting requirement with no violations for a period of at
32 least five years in the community may petition the superior court to be
33 relieved of the duty to report every ninety days. The petition shall
34 be made to the superior court in the county where the offender resides
35 or reports under this section. The prosecuting attorney of the county
36 shall be named and served as respondent in any such petition. The
37 court shall relieve the petitioner of the duty to report if the
38 petitioner shows, by a preponderance of the evidence, that the

1 petitioner has complied with the reporting requirement for a period of
2 at least five years and that the offender has not been convicted of a
3 criminal violation of this section for a period of at least five years,
4 and the court determines that the reporting no longer serves a public
5 safety purpose. Failure to report, as specified, constitutes a
6 violation of this section and is punishable as provided in subsection
7 (11) of this section.

8 (8) A sex offender subject to registration requirements under this
9 section who applies to change his or her name under RCW 4.24.130 or any
10 other law shall submit a copy of the application to the county sheriff
11 of the county of the person's residence and to the state patrol not
12 fewer than five days before the entry of an order granting the name
13 change. No sex offender under the requirement to register under this
14 section at the time of application shall be granted an order changing
15 his or her name if the court finds that doing so will interfere with
16 legitimate law enforcement interests, except that no order shall be
17 denied when the name change is requested for religious or legitimate
18 cultural reasons or in recognition of marriage or dissolution of
19 marriage. A sex offender under the requirement to register under this
20 section who receives an order changing his or her name shall submit a
21 copy of the order to the county sheriff of the county of the person's
22 residence and to the state patrol within five days of the entry of the
23 order.

24 (9) The county sheriff shall obtain a photograph of the individual
25 and shall obtain a copy of the individual's fingerprints. A photograph
26 may be taken at any time to update an individual's file.

27 (10) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
28 70.48.470, and 72.09.330:

29 (a) "Sex offense" means:

30 (i) Any offense defined as a sex offense by RCW 9.94A.030;

31 (ii) Any violation under RCW 9A.44.096 (sexual misconduct with a
32 minor in the second degree);

33 (iii) Any violation under RCW 9.68A.090 (communication with a minor
34 for immoral purposes);

35 (iv) Any federal or out-of-state conviction for an offense that
36 under the laws of this state would be classified as a sex offense under
37 this subsection; and

1 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
2 criminal attempt, criminal solicitation, or criminal conspiracy to
3 commit an offense that is classified as a sex offense under RCW
4 9.94A.030 or this subsection.

5 (b) "Kidnapping offense" means: (i) The crimes of kidnapping in
6 the first degree, kidnapping in the second degree, and unlawful
7 imprisonment, as defined in chapter 9A.40 RCW, where the victim is a
8 minor and the offender is not the minor's parent; (ii) any offense that
9 is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation,
10 or criminal conspiracy to commit an offense that is classified as a
11 kidnapping offense under this subsection (10)(b); and (iii) any federal
12 or out-of-state conviction for an offense that under the laws of this
13 state would be classified as a kidnapping offense under this subsection
14 (10)(b).

15 (c) "Employed" or "carries on a vocation" means employment that is
16 full-time or part-time for a period of time exceeding fourteen days, or
17 for an aggregate period of time exceeding thirty days during any
18 calendar year. A person is employed or carries on a vocation whether
19 the person's employment is financially compensated, volunteered, or for
20 the purpose of government or educational benefit.

21 (d) "Student" means a person who is enrolled, on a full-time or
22 part-time basis, in any public or private educational institution. An
23 educational institution includes any secondary school, trade or
24 professional institution, or institution of higher education.

25 (11)(a) A person who knowingly fails to comply with any of the
26 requirements of this section is guilty of a class C felony if the crime
27 for which the individual was convicted was a felony sex offense as
28 defined in subsection (10)(a) of this section or a federal or out-of-
29 state conviction for an offense that under the laws of this state would
30 be a felony sex offense as defined in subsection (10)(a) of this
31 section.

32 (b) If the crime for which the individual was convicted was other
33 than a felony or a federal or out-of-state conviction for an offense
34 that under the laws of this state would be other than a felony,
35 violation of this section is a gross misdemeanor.

36 (12)(a) A person who knowingly fails to comply with any of the
37 requirements of this section is guilty of a class C felony if the crime
38 for which the individual was convicted was a felony kidnapping offense

1 as defined in subsection (10)(b) of this section or a federal or out-
2 of-state conviction for an offense that under the laws of this state
3 would be a felony kidnapping offense as defined in subsection (10)(b)
4 of this section.

5 (b) If the crime for which the individual was convicted was other
6 than a felony or a federal or out-of-state conviction for an offense
7 that under the laws of this state would be other than a felony,
8 violation of this section is a gross misdemeanor.

9 (13) Except as may otherwise be provided by law, nothing in this
10 section shall impose any liability upon a peace officer, including a
11 county sheriff, or law enforcement agency, for failing to release
12 information authorized under this section.

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